

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

10TALES, INC.,  <div style="text-align: right; margin-right: 100px;">Plaintiff,</div> <div style="text-align: center; margin-top: 20px;">v.</div> TIKTOK INC.,  <div style="text-align: right; margin-right: 100px;">Defendant.</div>	§ § § § § § § § § §	Case No. 6:20-cv-810-ADA  JURY TRIAL DEMANDED
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**JOINT CASE READINESS STATUS REPORT**

Plaintiff 10Tales, Inc. and Defendant, TikTok Inc., hereby provide the following status report in advance of the initial Case Management Conference (CMC).

**FILING AND EXTENSIONS**

Plaintiff's Complaint was filed on September 2, 2020. One Motion for Extension of Time to File Answer was filed by Defendant on September 15, 2020, and said Motion was granted, extending Defendant's time to answer or otherwise respond to November 9, 2020. A second Motion for Extension of Time to File was filed by Defendant on November 5, 2020, and said Motion was granted, extending Defendant's time to answer or otherwise respond to November 19, 2020. On December 3, 2020, Plaintiff filed a Motion for Extension of Time to Respond to Defendant's Motion to Dismiss Under Federal Rules 12(b)(3) and 12(b)(6) or, in the Alternative, Transfer Under 28 U.S.C. § 1404, and said Motion was granted, extending the deadline to December 18, 2020.

### **RESPONSE TO THE COMPLAINT**

Defendant responded to the Complaint on November 19, 2020, filing a sealed Motion to Dismiss Under Federal Rules 12(b)(3) and 12(b)(6) or, in the Alternative, Transfer Under 28 U.S.C. §1404.

### **PENDING MOTIONS**

Defendant's Motion to Dismiss Under Federal Rules 12(b)(3) and 12(b)(6) or, in the Alternative, Transfer Under 28 U.S.C. §1404 remains pending before the Court at this time.

### **RELATED CASES IN THIS JUDICIAL DISTRICT**

No related cases are identified in this judicial district.

### **IPR, CBM, AND OTHER PGR FILINGS**

There are no IPR, CBM, or other PGR filings.

### **NUMBER OF ASSERTED PATENTS AND CLAIMS**

Plaintiff has asserted a total of 1 claim from U.S. Patent No. 8,856,030.

### **APPOINTMENT OF TECHNICAL ADVISOR**

The parties do not request a technical advisor to be appointed to the case to assist the Court with claim construction or other technical issues.

### **MEET AND CONFER STATUS**

Plaintiff and Defendant conducted a meet & confer on November 25, 2020. The parties identified the following pre-Markman issues to raise at the CMC:

- The parties are working toward an agreed upon tentative schedule for venue/jurisdictional discovery.
- Defendant requests that the venue/jurisdictional discovery and briefing schedule include staying all other substantive deadlines, including deadlines related to claim

construction, until the Court rules on Defendant’s motion to dismiss for improper venue under Rule 12(b)(3), motion to dismiss for failure to state a claim upon which relief may be granted under Rule 12(b)(6), and the motion to transfer for *forum non-conveniens* under 28 U.S.C. § 1404. See *In re Apple Inc.*, No. 2020-135, 2020 WL 6554063, \*6-8 (Fed. Cir. Nov. 9, 2020 (“Although district courts have discretion as to how to handle their dockets, once a party files a transfer motion, disposing of that motion should unquestionably take top priority.”) (citing *In re Nintendo Co.*, 544 F. App’x 934, 941 (Fed. Cir. 2013) (explaining that “a trial court must first address whether it is a proper and convenient venue before addressing any substantive portion of the case”))).

- Plaintiff has requested that Defendant provide a date certain when it will produce its source code.
- Defendant contends that producing highly proprietary source code, prior to the opening of post-claim construction discovery, is not warranted in this case at least because the request is premature, Plaintiff has failed to state a claim upon which relief can be granted, and Plaintiff has failed to allege that source code is necessary to identify limitations in the accused instrumentality.

Dated: December 4, 2020

Respectfully submitted,

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